

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

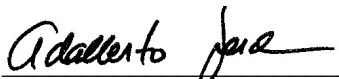
CASE NO. 07-21299-CIV-JORDAN

JUAN TAMAYO, et al.,)
)
Plaintiffs)
)
vs.)
)
UNITED STATES DEPARTMENT OF)
JUSTICE, et al.,)
)
Defendants)
_____)

ORDER ON MOTION FOR MODIFICATION OF ORDER AND/OR FOR ENLARGEMENT OF TIME

The government's motion for modification of order and/or enlargement of time [D.E. 47] is GRANTED IN PART. By no later than September 1, 2008, the government is directed to provide the *Vaughn* index and all documents responsive to the FOIA request for *in camera* review. Contrary to the plaintiffs' assertion in their response, it appears that an agency is not barred from invoking a particular FOIA exemption in litigation merely because that exemption was not cited in responding to the request. *See Young v. CIA*, 972 F.2d 536, 538-39 (4th Cir. 1992) ("an agency does not waive FOIA exemptions by not raising them during the administrative process") (citing *Dubin v. Dep't of the Treasury*, 555 F. Supp. 408, 412 (N.D. Ga.1981), *aff'd*, 697 F.2d 1093 (11th Cir. 1983)).

DONE and ORDERED in chambers in Miami, Florida, this 12th day of June, 2008.



Adalberto Jordan
United States District Judge

Copy to: All counsel of record